IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.390 OF 2005
IN
CRIMINAL APPEAL NO.74 OF 2005

Devisingh Pannasingh Kharwala
and anr. ....Applicants.

V/s

State of Maharashtra ....Respondent.

Mr. M.J. Kochre for the applicants.

Mr. D.P. Adsule for the State.

CORAM: V. M. KANADE, J.
DATE: 27th January, 2005

P.C.:

1. Heard the learned Counsel appearing on behalf of the applicant and the learned APP for the State.

2. Applicants are convicted by the Trial Court for an offence punishable under section 376 and 506(II) of the Indian Penal Code and sentenced to suffer R.I. for seven years.

3. Prosecution case is that the applicants kidnapped the prosecutrix and took her to Mumbai and raped her for 2/3 days and committed sexual intercourse without her consent.

4. The learned Counsel appearing on behalf of the applicants submits that the medical evidence does not

support the case of the prosecutrix. He has further submitted that in her evidence she has admitted that her statement that the applicants raped her for 2/3 days, has not been recorded by the police. This omission has been proved by the defence.

5. In my view, considering the evidence on record and improvements which are made by the prosecutrix in her statement, prima facie case has been made out by the applicants for being released on bail. Applicants be released on bail in the sum of Rs 5000/- each with one or two sureties in the like amount. Applicants, however, shall report to MIDC Police Station twice in a month.

V.M. KANADE, J.